

REMARKS

Claims 7–11, 14–18, 21, 24–25, 27–31, and 33–39 are currently pending in the application. No claims have been added, canceled, or amended herein. Applicant respectfully requests reconsideration of the application in view of the following remarks.

Claims 7–11, 14–18, 21, 24–25, 27–31, and 33–39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,870,723 to Pare, Jr. et al. (“Pare”) in view of U.S. Patent No. 6,181,803 to Davis (“Davis”). The Final Office Action asserts in response to Applicant’s response to the previous office action that “[t]here is no language or limitation in the claimed invention that necessitates that the comparison be performed by a human being...” Thus, the Office Action concludes that the claimed invention may be performed by any means available to the seller, including computerized and automated systems.

Each of the currently-pending independent claims requires generation of a physical identifier for comparison to a buyer *by a seller*. A physical identifier generated for comparison to a buyer by a seller, by its very terms, requires that any comparison using the physical identifier be performed *by a seller*, as opposed to a comparison that is performed *by a computer system or other machine*, the results of which may then be provided to the seller in some fashion.

In the currently-pending independent claims, the seller may only reasonably be considered to be a human being. In contrast to the position taken in the Final Office Action, a computer system is merely a machine that may be used to facilitate a sale or other task; a computer system cannot be a seller. The term *seller* by necessity is limited to a human being. Applicant respectfully submits that, even according to the argument presented in the Final Office Action, no seller actually performs a comparison, but rather a computer system or other machine performs a comparison, the results of which may be provided to a seller.

In addition to the above, independent claims 9, 16, and 18 recite displaying the physical identifier to the seller via equipment of the seller. Applicant respectfully submits that the phrase *displaying the physical identifier to the seller* in various of the independent claims further supports Applicant’s position. Therefore, even if it is assumed, for the sake of argument, that Davis teaches generation of a physical identifier for comparison to the buyer by the seller, Davis in no way teaches *displaying* the physical identifier to the seller. In contrast, at most,

Davis teaches comparing biometric data by a computer system or other machine and displaying information relative to the comparison to the seller. Davis does not teach displaying a physical identifier itself to the seller.

Applicant respectfully submits that the independent claims distinguish over the cited combination of Pare and Davis. Withdrawal of the rejection of the independent claims is respectfully requested.

Each of the pending dependent claims depends from and further limits one of the independent claims in a patentable sense. The dependent claims are therefore deemed to distinguish over the cited combination of Pare and Davis for at least the same reasons as those set forth above with respect to their respective independent claim. Withdrawal of the rejection of the dependent claims as unpatentable over Pare in view of Davis is respectfully requested.

In view of the above, each of the presently-pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

By 

Ross T. Robinson

Registration No.: 47,031

JENKENS & GILCHRIST, A PROFESSIONAL
CORPORATION

1445 Ross Avenue, Suite 3200

Dallas, Texas 75202

(214) 855-4500

Attorneys For Applicant